

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**ANTHONY KINARD,**

**Plaintiff,**

**CIVIL ACTION NO. 04-CV-70542-DT**

**vs.**

**DISTRICT JUDGE AVERN COHN**

**LARRY NUNNERY,  
et. al,**

**MAGISTRATE JUDGE MONA K. MAJZOUB**

**Defendants.**

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**OPINION AND ORDER GRANTING DEFENDANTS' MOTION  
TO COMPEL DISCOVERY (DOCKET # 50)**

**A. PROCEDURAL HISTORY**

On March 2, 2004 Plaintiff filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against two Defendants, Macomb Correctional Facility (“MCF”) Resident Unit Manager Larry Nunnery and MCF Records Office Supervisor Leon Schroer (“Defendants”).<sup>1</sup> Plaintiff alleges that Defendants conspired to interfere with his legal mail in violation of prison policy and his constitutional rights. Plaintiff specifically asserts that Defendants Nunnery and Schroer opened, read and destroyed Plaintiff’s sealed legal mail and conspired with others to do the same. He also asserts that Defendants continue to retaliate against him for filing various grievances and the instant lawsuit. Defendants’ motions to dismiss and for summary judgment have been denied. On May 17, 2005 attorney Daniel Manville was assigned to represent Plaintiff and he

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<sup>1</sup> Plaintiff was subsequently granted leave to amend the Complaint to add seven additional Defendants pursuant to an April 15, 2006 Order by District Court Judge Avern Cohn.

remains as Plaintiff's attorney of record to this date.<sup>2</sup>

On November 22, 2005 Defendants filed a Motion to Compel Discovery (Docket # 50). Plaintiff failed to respond to this motion. All pre-trial matters were referred to this Court by Judge Cohn. This motion is now before this Court.

**B. MOTION TO COMPEL**

Defendants seek an order compelling Plaintiff to respond to their Request for Production of Documents dated October 11, 2005. Specifically, Defendants seek:

- (1) a copy of any and all documents, pleadings and correspondences relating to the Plaintiff's habeas corpus case, U.S. District Court case no. 00-cv-10362, which is the basis for the claims asserted in this case
- (2) a copy of any and all documents, pleadings and correspondences sent to or received from Bryant Crutcher of the Sixth Circuit Court of Appeals which is the basis for the claims asserted in this case
- (3) a copy of any and all letters, correspondence, communications or other documents sent to or received from Sixth Circuit Court of Appeals case manager which is the basis for the claims asserted in this case
- (4) a copy of any and all letters, correspondence, communications or other documents sent to or received from the U.S. District Court Clerk Barbara K. Socia which is the basis for the claims asserted in this case
- (5) a copy of any and all letters and correspondence to and from Ada R. Montgomery which form the basis of Plaintiff's complaint

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<sup>2</sup> Mr. Manville is assigned to represent Plaintiff unless his "assignment is terminated by (1) Order of the Court; (2) assignment of substitute counsel; or (3) termination of the matter before the Court." (Judge Cohn "Order of Assignment of Counsel" dated May 19, 2006). Since none of these events have yet occurred, Mr. Manville continues to represent Plaintiff in all matters before this Court.

Defendants have not received either objections or responses from Plaintiff. Therefore, Defendants' Motion to Compel Discovery (Docket # 50) is **GRANTED** and Plaintiff, through his assigned counsel, is ordered to respond to Defendants' Request for Production of Documents dated October 11, 2005 **on or before July 14, 2006** as required under Fed. R. Civ. P. 34.

**IT IS SO ORDERED.**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: June 26, 2006

s/ Mona K. Majzoub  
**MONA K. MAJZOUB**  
**U.S. MAGISTRATE JUDGE**

**Proof of Service**

I hereby certify that a copy of this Order was served upon Anthony Kinard and Counsel of Record on this date.

Dated: June 26, 2006

s/ Lisa C. Bartlett  
Courtroom Deputy